



One Hundred First Legislature - Second Session - 2010  
**Introducer's Statement of Intent**  
**LB 1047**

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**Chairperson:** Brad Ashford  
**Committee:** Judiciary  
**Date of Hearing:** February 3, 2010

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

The intent of LB 1047 is to provide a default rule of construction for the decedent who does not or could not change their estate plan to account for a year when there would be no federal estate tax or generation-skipping transfer tax. Many wills and trusts drafted to take advantage of federal tax exemptions for spouses and children use terms and formulas referring to things such as the applicable credit amount, unified credit, federal estate tax, and generation-skipping transfer tax. However, in 2010, there is no federal estate tax, and therefore many of the formulas used in drafting will and trusts will not function to fund trust or estate plans as intended when the will or trust document was created.

The language of LB 1047 provides that a will or trust that contains a formula referring to the "unified credit", "estate tax exemption", "applicable exemption amount", "applicable credit amount", "applicable exclusion amount", "generation-skipping transfer tax exemption", "GST exemption", "marital deduction", "maximum marital deduction", or "unlimited marital deduction", or that measures a share of an estate or trust based on the amount that can pass free of federal estate tax or the amount that can pass free of federal generation-skipping transfer tax, or that is otherwise based on a similar provision of federal estate or generation-skipping transfer tax law, shall be deemed to refer to the federal estate and generation-skipping transfer tax laws as they applied with respect to estates of decedents dying on December 31, 2009. This default rule will protect the intent of those decedents who used such formulas that depended on the existence of a federal estate tax or generation-skipping transfer tax.

Section 2(b) and 2(c) of LB 1047 ensure the language of the testator will control the disposition of the testator. If the testator expresses an intent that the language used in the will or estate document apply even if there is no estate tax or regardless of the estate tax exemption, then the testator will be allowed to pass property as they intended.

Section 2(a) of LB 1047 further provides that this default rule of construction will not apply if the decedent dies on a date on which there is a then-applicable federal estate or generation-skipping transfer tax.

**Principal Introducer:**

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**Senator John Wightman**